

111TH CONGRESS  
2D SESSION

# S. 3208

To amend the Internal Revenue Code of 1986 to provide a special rule for allocating the cover over of distilled spirits taxes between Puerto Rico and the Virgin Islands.

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## IN THE SENATE OF THE UNITED STATES

APRIL 15, 2010

Mr. MENENDEZ (for himself, Mr. COCHRAN, Mr. NELSON of Florida, Mr. LEMIEUX, and Mr. KAUFMAN) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to provide a special rule for allocating the cover over of distilled spirits taxes between Puerto Rico and the Virgin Islands.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Reinvesting in U.S.  
5       Territories, Not Corporations Act”.

1 **SEC. 2. SPECIAL RULE FOR ALLOCATING DISTILLED SPIR-**  
 2 **ITS TAXES BETWEEN PUERTO RICO AND THE**  
 3 **VIRGIN ISLANDS.**

4 (a) IN GENERAL.—Section 7652 of the Internal Rev-  
 5 enue Code of 1986 is amended by adding at the end the  
 6 following new subsection:

7 “(i) REDUCTION OF COVER OVER FOR UNREASON-  
 8 ABLE AND EXCESSIVE RUM SUBSIDIES.—

9 “(1) IN GENERAL.—For purposes of this sec-  
 10 tion, with respect to taxes imposed under section  
 11 5001 or this section on distilled spirits, the amount  
 12 covered into the treasury of any covered government  
 13 (after the application of subsection (f)) in any cal-  
 14 endar year shall be reduced (but not below zero) by  
 15 the sum of—

16 “(A) the amount of any unreasonable and  
 17 excessive rum subsidy paid or incurred by such  
 18 government in the preceding calendar year, and

19 “(B) the amount of any unreasonable and  
 20 excessive rum subsidy paid or incurred by such  
 21 government for any calendar year preceding  
 22 such preceding calendar year which has not  
 23 been taken into account to reduce the amount  
 24 so covered for any preceding calendar year.

25 “(2) UNREASONABLE AND EXCESSIVE RUM  
 26 SUBSIDY.—

1           “(A) IN GENERAL.—For any calendar  
2 year, the unreasonable and excessive rum sub-  
3 sidy paid by any covered government during  
4 such calendar year is the amount of the excess,  
5 if any, of—

6           “(i) the aggregate amount of direct  
7 and indirect government assistance paid or  
8 incurred in such calendar year by such  
9 government to all persons that produce  
10 distilled spirits in the geographical area  
11 governed by such government for consump-  
12 tion or sale in such geographical area or in  
13 the United States, over

14           “(ii) the amount that is 10 percent of  
15 the amounts which would (but for this sub-  
16 section) be covered into the treasury of  
17 such government under subsection (a)(3)  
18 or (b)(3), whichever is applicable, in such  
19 calendar year (without regard to amounts  
20 covered into such treasury under sub-  
21 section (e)).

22           “(B) DIRECT GOVERNMENT ASSIST-  
23 ANCE.—For purposes of subparagraph (A)(i),  
24 direct government assistance includes any  
25 transfer of funds, grant, loan, equity invest-

ment, loan guarantee, production or marketing incentive, income or price support, provision of goods or services other than generally available infrastructure and public services, and such other assistance provided by a covered government as the Secretary identifies as consistent with the purposes of this subsection.

“(C) INDIRECT GOVERNMENT ASSISTANCE.—For purposes of subparagraph (A)(i), indirect government assistance includes any amounts expended by a covered government to promote, market, or otherwise support the rum industry in the geographical area governed by such government, to pay interest on, and expenses related to, indebtedness incurred, the proceeds of which are used to provide rum subsidies, and for any other purpose identified by the Secretary as consistent with the purposes of this subsection.

“(3) COVERED GOVERNMENT.—For purposes of this subsection, the term ‘covered government’ means the government of Puerto Rico and the government of the Virgin Islands.

“(4) REGULATIONS.—The Secretary may prescribe regulations and guidance as necessary or ap-

1       appropriate to carry out the purposes of this sub-  
2       section, including regulations requiring annual re-  
3       ports to be submitted by covered governments re-  
4       porting the amount of direct and indirect govern-  
5       ment assistance provided to persons that produce  
6       distilled spirits, the monetary value of such assist-  
7       ance, and any other information as required by the  
8       Secretary.”.

9       (b) EFFECTIVE DATE.—The amendment made by  
10      this section shall apply to deposits made under subsection  
11      (a)(3) or (b)(3) of section 7652 of the Internal Revenue  
12      Code of 1986 for calendar years beginning after December  
13      31, 2009.

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